



## **CITY OF DUNWOODY**

41 Perimeter Center East, Suite 250  
Phone: 678.382.6700 • Fax: 678.382.6701  
www.dunwoodyga.gov

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### **MEMORANDUM**

**To:** Mayor and City Council  
**From:** Chris Pike, Finance Director  
**Date:** November 16, 2009  
**Subject:** **Approval to Accept Contract Terms for Workers Compensation Insurance**

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#### **ITEM DESCRIPTION**

To approve a Single Source request for Workers Compensation Insurance

#### **BACKGROUND**

During the current fiscal year, the City obtained a policy with Southeastern U.S. Insurance Company (SEUS). State regulators began a review of the company's financials, after CEO Clark Fain received a loan from his company for more than \$10 million without the required state approval. Oxendine claimed the company was overstating assets and understating liabilities. As a result of the investigation, on Friday, September 11, 2009, SEUS entered into an Administrative Supervision Order by Consent with the Georgia Department of Insurance (DOI). During the following period of time, the DOI evaluated the financial condition of SEUS to determine their capability to continue operation. At the same time, SEUS was attempting to secure additional capital or a sale. The City's insurance broker for workers compensation advised the City of the actions and started the process of marketing the Workers Compensation Insurance to other carriers. As the DOI completed their evaluation, it was determined that SEUS would not have the financial ability to continue operation. On October 27<sup>th</sup>, SEUS was placed into liquidation, and the company was shut down. The DOI is now managing the runoff of SEUS and has issued a final notice of cancellation of all insurance policies for November 26<sup>th</sup>, 2009. The City will have to replace coverage no later than that date. However, the City is potentially exposed until that date in the event we have a sizable claim with insufficient resources in the DOI pool to cover the expenses. Obtaining alternative insurance as soon as possible is imperative.

#### **ISSUES**

SEUS insured over 50 cities throughout Georgia. Most carriers will not insure governments. As a result, obtaining an alternative carrier has been challenging. The City's broker provided the following as a result of his efforts:

**STATE OF GEORGIA  
CITY OF DUNWOODY**

Carriers Marketed To & Results:

- Key Risk Insurance Co – Declined to quote
- PMA Insurance Co – Declined to quote
- AIG – Declined to quote
- ACE Insurance Co – Declined to quote
- Georgia Assigned Risk Pool – Quoted \$130,382
- Dallas National Insurance Co – Quoted \$70,013 B+ Rated AM Best
- Lion Insurance Company – Quoted \$65,389 A- Rated AM Best
- Bridgefield Insurance Co. – Declined to quote
- Travelers – Declined to quote
- Trident – Declined to quote
- GMA - \$94,897

The rate provided by Lion Insurance Company is both the lowest rate and is the best rating from the two insurance companies quoted. Regarding the quote from GMA, the higher premium comes with a potential liability. As a pooling mechanism, all the members of the pool are jointly & severably liable for the losses of the pool. Given the higher expense to join the GMA pool, there appears to be no advantage to take on this additional risk.

**ALTERNATIVES**

Council could choose to accept Dallas National or enter the GMA Program. Council could also reject the Single Source request and instruct staff to competitively procure the insurance coverage. However, this alternative is highly discouraged as it would leave the City uninsured after November 26.

**RECOMMENDED ACTION**

It is respectfully requested that Council approve to: (1) accept Staff's recommendation to select Lion Insurance Company to provide workers compensation insurance; (2) authorize Staff to negotiate a contract with the carrier; and (3) authorize the City Manager to execute the necessary documents following satisfactory review by Staff and legal counsel.



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### **SINGLE SOURCE PURCHASE JUSTIFICATION**

Requests for approval of a single source purchase must be justified in writing by the initiator and approved by the City Council. Requests for Single Source approval are routed from the requesting department through the Purchasing Office to the Finance Director.

**A single source purchase is a purchase made from one firm among others in a competitive market place which, for justifiable reasons, is found to be most advantageous for the purpose of fulfilling the given purchasing need. The following questions should be addressed in the justification.**

**Item/Service Description: Workers Compensation Insurance**  
**Supplier: Lion Insurance Company**

**1. What is the end use of the item or nature of the service being requested?**

To provide workers compensation insurance for City employees.

**2. What capability does the Supplier or Suppliers items have that make it most advantageous for the purpose needed?**

Due to the governmental nature of our needs, a very limited number of suppliers were willing to insure the City. The current provider, Southeastern U.S. Insurance Company (SEUS), was the eighth largest workers' compensation insurer in Georgia. However, all of SEUS's customers will lose their coverage on November 26 due to the liquidation. The 53 cities and 200 companies that used SEUS prior to this announcement must find alternative coverage.

**3. What research was done to ensure no other available source was as appropriate to fulfill the need?**

Staff exhausted its efforts to identify any carriers willing to assume the City's insurance needs. The City identified two private carriers and GMA as a result of that search. GMA was significantly more expensive.

**4. What would the impact be in job accomplishment and/or financial loss if another Supplier's product or service with similar capabilities were substituted?**

The City would pay more to choose an alternative provider including GMA. As you compare this quote to the GMA offer, please make sure you consider the potential liability that comes with the GMA program. As a pooling mechanism, all the members of the pool are jointly & severably liable for the losses of the pool. Given the higher expense to join the GMA pool, there appears to be no advantage to take on this additional risk.

**5. Is this a one-time purchase? If so, what is the estimated cost of the item or service required?**

For this one-time purchase with subsequent renewals, the premium is \$65,389. Funding is budgeted in the approved 2009 and 2010 operating budgets.

**6. Circumstances change over time. If this request is for approval for a continuing requirement, what is the length of time the single source approval is needed prior to reevaluating available commercial solutions and the Authority's requirements?**

Staff will explore additional options as they occur. With 53 businesses leaving the current insurer, there is a potential that another insurance provider will step up to offer a product to the City that may be more advantageous. Also, with a larger window of notice, the City may attempt to solicit competitive bids.

Original signed by HR Director Roma Rowland  
Request Initiator \_\_\_\_\_ Date \_\_\_\_\_

Original signed by Finance Director Chris Pike  
Department Director \_\_\_\_\_ Date \_\_\_\_\_

Approved:

\_\_\_\_\_  
Ken Wright, Mayor

Attest:

\_\_\_\_\_  
Sharon Lowery, City Clerk  
Seal